

WaiversFirst Name Last Name Claim Number

W-18-0027

Amount OGC Received Date Assigned To Assigned Date

\$4261.35 05/23/2018 Lucille Liem 05/23/2018

EPA Decision EPA Decision Date Amount Approved Status

APPROVED 06/17/2019 \$4261.35 CLOSED

Appeal Comments

No From: Redden, Kenneth

Sent: Monday, June 17, 2019 1:28 PM

To:

Cc: Luebbering, Gregory <luebbering.gregory@epa.gov>; Henderson, Jessica <Henderson.Jessica@epa.gov>; Liem, Lucille <Liem.Lucille@epa.gov>; Sisson, Ann <Sisson.Ann@epa.gov>; robin_koch@ibc.doi.gov; matthew_neyer@ibc.doi.gov; Tillman, Daniel <tillman.daniel@epa.gov>
Subject: Waiver of Indebtedness Application (W-18-0027)

Dear :

This email is in response to your “Waiver of Indebtedness Application,” dated May 22, 2018, wherein you have requested approval of a waiver of debt in the amount of \$4,261.35. For the reasons set forth below, your request for a waiver is granted.

Background

Our records show that a debt of \$4,261.35 accrued when you made a change to your FEGLI enrollment form on March 7, 1996, which indicated your choice to opt into the Basic Plus Option B (“Option B”) life insurance plan. For pay periods 199608-201509 (March 17, 1996 through April 18, 2009), the additional premiums for Option B were not deducted by payroll processing. This issue was not detected until April 7, 2017, when Cheryl Thomas, a human resources benefits specialist at the shared services center in Cincinnati, Ohio, discovered the 1996 FEGLI enrollment form that reflected your choice to opt into the Option B life insurance plan. Accordingly, EPA sent you a Bill for Collection on March 22, 2018 in the amount of \$4,261.35 for the additional premiums not withheld for pay periods 199608-201509.

In response to the Bill for Collection, you timely submitted a “Waiver of Indebtedness Application” on May 22, 2018. In your application, you stated that two FEGLI enrollment forms were sent on March 7, 1996, and that the first form contained the incorrect enrollment information that opted you into the Option B plan. You promptly corrected this error by sending a second FEGLI enrollment form reflecting your choice to opt into the Basic Insurance plan. In support of this, you provided records of

email communication between you and Juelee Street, a personnel staff member at the time, on March 7, 1996, stating that you sent the corrected FEGLI enrollment form that reflected your choice to opt into the Basic life insurance plan and not the Option B life insurance plan.

Analysis

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee.

According to our records, no SF-50 or any other documentation was ever issued to you to show a change in FEGLI status from the Basic plan to FEGLI Option B. Additionally, your payroll payments reflected the deductions for the premiums in the Basic insurance plan and not Option B plan.

In reviewing the record, it appears that the debt issued was the result of the Agency's negligence by processing the incorrect FEGLI enrollment form for your retirement, and the reason that this debt was issued.

Waiver is precluded if the employee is aware or should have been aware that he or she was being overpaid. B-271308, April 18, 1996. In the present case, I find that the erroneous payments were caused by Agency administrative error. Therefore, the only issue before me is whether you knew or should have known that you were receiving more pay than you were entitled to receive.

In this case, my review of the record indicates that you did not know that you were being overpaid and could not reasonably have been aware that you were being overpaid. In fact, you promptly corrected your FEGLI enrollment form upon discovering that you had accidentally checked off the Option B life insurance plan on March 7, 1996. Moreover, in the years that followed your FEGLI enrollment, you acted under the belief that you were enrolled in the Basic plan since the premiums deducted in your paycheck were for the Basic plan and not the Option B premiums. When an employee has been overpaid because of an administrative error and there are no signs of fault, the Comptroller General has usually waived any resulting overpayments. B-226143, November 22, 1988. The reason for this is that it would be against equity and good conscience to collect on a debt that is created solely because of the Agency's negligence in processing the correct FEGLI enrollment form.

Furthermore, there is no evidence to indicate that the employee was ever notified of his enrollment in the Option B life insurance plan or evidence to indicate that the employee knew or should have known that he was enrolled in the Option B life insurance plan. Thus, under these circumstances, a waiver is warranted because the employee could not reasonably have been expected to know or suspect he or she was being overpaid when he submitted the proper insurance form and was deducted the premiums for the Basic insurance and not the Option B plan. Contra B-256826, August 2, 1994 (finding an employee liable for unpaid insurance premiums when the employee knew that the deductions were not being made).

Accordingly, all the criteria for waiver of this claim have been met, and this request for waiver is approved in the amount of \$4,261.35. By copy of this email to Gregory Luebbering in EPA's Cincinnati Finance Center, I am advising that OCFO should work with the Interior Business Center to waive repayment and to refund to you any money that was already paid by you toward this debt.

If you have any questions, please contact Lucille Liem of this office at (202) 564-5699.

Type
Federal Employee Group Life Insurance (FEGLI)

Attachments